

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING DIVISION**

CHASITY D. ADKINS, *et al.*,
on behalf of herself and all others
similarly situated,

Plaintiffs,

V.

MT. NEBO FOODS, LLC
d/b/a DEE JAY'S BBQ RIBS & GRILLE,
et al.,

Defendants.

CASE NO. 5:22-cv-00006-JPB

JUDGE JOHN P. BAILEY

**OPINION AND ORDER GRANTING NAMED PLAINTIFF'S MOTION FOR
CONDITIONAL CERTIFICATION AND COURT-SUPERVISED NOTICE TO
POTENTIAL OPT-IN PLAINTIFFS PURSUANT TO 29 U.S.C. §216(b) (ECF NO.
34) AND ADOPTING THE FORM OF NOTICE AND CONSENT TO JOIN (ECF
NO. 41)**

This matter is now before the Court on Named Plaintiff's Motion for Conditional Certification and Court-Supervised Notice to Potential Opt-in Plaintiffs Pursuant to 29 U.S.C. §216(b) (ECF No. 34). Thereafter, on May 31, 2022, the Parties stipulated that Named Plaintiff's Motion for Conditional Certification and Court-Supervised Notice to Potential Opt-in Plaintiffs Pursuant to 29 U.S.C. §216(b) (ECF No. 34) should be granted, subject to the parties' agreement as to the form and content of the notice and procedure to be used for opt-in plaintiffs and without waiver of the Defendants' defenses or right to challenge certification after discovery (ECF No. 37). Thereafter, on June 16, 2022, the Parties stipulated to the form and notice and consent to join and submitted to the Court for its consideration the Notice of Collective Action, as Exhibit A, and Consent to Join, as Exhibit B (ECF No. 41).

Having considered the Parties' filings as noted above, and finding that good cause exists to issue an order pursuant to said stipulations and filings,

IT IS HEREBY ORDERED THAT:

1. This action satisfies the requirements for conditional certification as a "Collective Action" under the FLSA.
2. For purposes of conditional certification, the FLSA Collective Action Class ("putative class members") shall consist of:

All servers who worked for the restaurant doing business as "Dee Jay's BBQ Ribs and Grille" and/or "Dee Jay's BBQ Ribs & Grille" (both referred to as "Dee Jay's") who were and are currently employed at any time from January 7, 2019, through the final disposition of this matter.

3. The Court adopts the attached documents of ECF No. 41 and permit the Plaintiffs to mail such documents to the putative class members in accordance with the Parties' Notice Plan, as outlined in their Joint Report of the Parties (ECF No. 39). Specifically:

- a. Defendants will provide the Plaintiff with the names, last known addresses, and emails (to the extent available) of all putative class members ("Class List") in Excel format within 21 days of the Court entering this Stipulation.
- b. Within 14 business days of receiving the Class List, Plaintiffs will mail the Notice, Consent to Join Form, and a self-addressed stamped envelope by first class U.S. mail to all potential members of the class.
- c. The Class members will have forty-five (45) days from the date of initial mailing to return their Consent to Join forms.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record herein.

DATED: July 25, 2022.

A handwritten signature in black ink, appearing to read 'John Preston Bailey', written over a horizontal line.

JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE